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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,355	11/01/2001	George Jordan	15-784	7129

7250

05/02/2004

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EXAMINER

CINTINS, IVARS C

ART UNIT

PAPER NUMBER

1724

DATE MAILED 05/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 10/033,355	Applicant(s) JORDAN ET AL.	
Examiner Ivars C. Cintins	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(c).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) 3-8 and 11-13 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1, 2, 9 and 10 is/are rejected.  
 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

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Applicant's election, with traverse, of Group I (now claims 1, 2, 9 and 10) in the response filed March 11, 2004 is acknowledged. The traversal is on the grounds that the distinctions between the groups listed in the previous Office action have been eliminated by the amendments to the claims; and that a search and examination of all the claims in this application would not constitute an undue burden upon the examiner. This is not found persuasive because although claim 3 has been amended to remove the limitation that a pair of water softening tanks are treated, this amended claim still recites exchanging soft ions for hard ions (see lines 8-9); and further fails to recite the second to first nozzle flow ratio recited in Group I (see claims 1 and 2, last line). Therefore, the apparatus of Group I could be used in another materially different process than that of Group II; and the process of Group II could be practiced by another materially different apparatus than that of Group I. Also, Applicant should note that the fluid treatment system now recited in claims 6-8 and 13 (Group III) does not require the first and second nozzles of Group I, nor does the brine valve mechanism of Group I require the piston, biasing element and check valve of Group III, as evidenced by claim 1. Accordingly, Groups I and III are still deemed to be distinct from one another. Furthermore, since the searches for the individual Groups are clearly divergent, as explained in the previous Office Action, the additional searches required for the non-elected inventions of Groups II and III would constitute a serious burden upon the examiner.

The requirement is still deemed proper and is therefore made FINAL. Claims 3-8 and 11-13 are withdrawn from further consideration, as being directed to non-elected inventions.

The drawings are objected to because the reference numerals in these drawings (see especially Fig. 2, middle section) are not clearly shown. A proposed drawing correction or

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corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The entire disclosure originally filed is directed to the treatment of water. See the title, abstract, and page 1, line 3 of the specification. Accordingly, the recitation of a "fluid" treatment system (claim 1, lines 1 and 4; claim 2, lines 2 and 4), which term includes gases and liquids other than water, is not supported by the disclosure originally filed, and hence constitutes **new matter**. Similarly claims 9 and 10 recite a fluid which "comprises water" (e.g. blood, sugar solution, etc.) and, as pointed out above, fluids other than water are not supported by the original disclosure.

Claims 1 and 2 would be allowed if limited to a water treatment system because the references of record do not teach or fairly suggest a water treatment system having a brine valve including means of the type recited for supplying water to the brine tank.

Kryzer (U.S. Patent No. 3,574,559) discloses a similar brine tank for a water treatment system.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The

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examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (571) 272-1156.

The centralized facsimile number for the USPTO is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ivars C. Cintins  
Primary Examiner  
Art Unit 1724

I. Cintins  
May 31, 2004